



July 12, 2010

Scott Blake Harris
U.S. Department of Energy
Office of the General Counsel
1000 Independence Avenue, SW
Room 6A245
Washington, D.C. 20585

Re: NBP RFI: Data Access

Dear Mr. Harris:

Cleco Power LLC (Cleco Power) appreciates the opportunity to submit responses regarding the Department of Energy's (DOE) Request For Information (RFI) regarding *Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid: Data Access, Third Party Use, and Privacy*, which was published at 75 Fed. Reg. 26203 (May 11, 2010).

Cleco Power is a member of Edison Electric Institute (EEI). Certain of Cleco Power's responses are derived from EEI's Draft Customer Data Access Guidelines, dated May 25, 2010. We have incorporated them, as appropriate, as our responses to the questions raised in the RFI, and have indicated which EEI Guideline our response is derived from.

Responses to Questions Raised in the RFI

(2) Who should be entitled to privacy protections relating to energy information?

(a) Cleco Power is an electric utility subject to regulation by the Louisiana Public Service Commission (LPSC). The LPSC, in Docket No. R-29213, consolidated with Docket No. R-29213 Subdocket A, issued its General Order, effective September 22, 2009, implementing its *Rule for Approval and Cost Recovery for Advanced Metering Systems ("AMS") and Demand Response ("DR") Programs* (the "AMS/DR Order"). Section 3.7 of the AMS/DR Order, which is of course binding upon Cleco Power, states:

The utility is prohibited from transferring any customer-specific information from any AMS outside the customer-utility working relationship without prior [LPSC] approval. Summary data for reporting purposes to governmental, regulatory, and industry groups in

which individual customer data is clearly indivisible from the total would not apply to this restriction.

Cleco Power notes that it submitted an application to the LPSC on June 9, 2010 seeking authorization to install, own, and operate, and rate recovery of, advanced metering infrastructure in its service territory. That application is pending in LPSC Docket No. S-31393. A portion of the project's cost will be funded by a \$20 million DOE Smart Grid Investment Grant.

(b) Electric utility policies for the treatment of customer energy usage data (CEUD) should be readily available and understandable to electric utility customers, and incorporated in the terms and conditions of retail service. Customer energy usage data includes all data specific to an individual customer's energy use (e.g., total and time-differentiated energy and capacity use. See EEI Guideline No. 1.

(c) An electric utility customer and its authorized third party service provider should be able to easily and efficiently obtain its CEUD. See EEI Guideline No. 3.

(d) To the extent electric utilities modify or augment or add value to CEUD, neither customers or third parties have a right to access such enhanced data except on such terms and conditions that may be agreed upon by an electric utility or determined by the appropriate regulatory authority, except to the extent such modified, enhanced or augmented data is provided in customer billing statements. See EEI Guideline No. 6.

(3) What, if any, privacy practices should be implemented in protecting energy information?

(a) Electric utilities should not release CEUD to third parties without affirmative customer authorization. Third parties with customer authorization to receive CEUD should be required to obtain explicit customer approval to resell CEUD. Third parties with authorization to receive CEUD should have responsibility to protect CEUD, including any liability that may result from unauthorized access to CEUD. Third parties with customer authorization to receive CEUD should obtain explicit customer approval to use CEUD for purposes not expressly authorized by customers. Third parties with customer authorization to receive CEUD should have policies for the treatment of CEUD which are readily available and understandable to customers. "Third parties" are those parties who are not under contractual obligations with a utility that include maintaining confidentiality of CEUD. See EEI Guideline No. 5.

(b) Electric utilities should protect against loss, theft, and unauthorized access of CEUD that they collect, while it is in their possession. See EEI Guideline No. 4.

(c) Electric utilities should collect the CEUD that is needed to render services, including demand response and billing. See EEI Guideline No. 2.

(d) Electric utilities must have access to operational data to plan and operate their systems in a manner that ensures safety, reliability, and efficiency. "Operational data" includes data related to the operation of electric utility systems that is not customer-specific, but includes aggregated CEUD. See EEI Guideline No. 7.

(e) Electric utilities must also have access to CEUD for reliability and billing purposes. If needed for reliability purposes, electric utilities can share CEUD with transmission and distribution operators without affirmative customer approval. Additionally, where customers own distributed resources, electric utilities need access to data describing the design and operational status of such resources to ensure safety for customers and utility employees, to bill customers for standby service, to provide net metering, and to validate demand response performance for the purpose of administering incentive payments. See EEI Guideline No. 8.

(f) Electric utilities and third parties with customer authorization to receive CEUD should have a monitoring and compliance program to ensure that their data policies are followed. This should include appointing personnel with authority to ensure that data policies are updated as needed, documented, and complied with. These personnel should review and update terms of service documents, as needed, and address potential needs for training and ongoing awareness activities. See EEI Guideline No. 9.

(4) Should consumers be able to opt in/opt out of smart meter deployment or have control over what information is shared with utilities or third parties?

(a) AMS provides system-wide benefits. An opt-out provision would render an AMS program unworkable.

(b) Electric utilities must be allowed by utility regulators to recover the costs incurred to implement customer privacy policies. See EEI Guideline No. 10.

(c) Cleco Power notes that, under Section 6 of the LPSC's AMR/DR Order, referenced above, utilities are permitted to recover prudently incurred costs associated with the full or partial deployment of an AMS or DR plan. The costs incurred to implement customer privacy policies should be treated as a recoverable cost (subject to prudence review).

(7) Which, if any, international, Federal, or State data-privacy standards are most relevant to Smart-Grid development, deployment, and implementation?

We refer you to Section 3.7 of the LPSC's AMS/DR Order, referenced above.

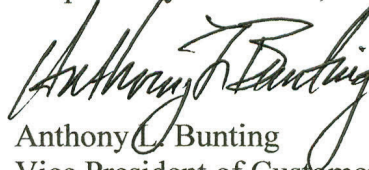
(13) What third parties, if any, should have access to energy information? How should interested third-parties be able to gain access to energy consumption data, and what standards, guidelines, or practices might best assist third parties in handling and protecting this data?

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We refer you to our response to Question 3 above.

Cleco Power sincerely appreciates the opportunity to submit these responses.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anthony L. Bunting". The signature is fluid and cursive, with the first name "Anthony" being more prominent.

Anthony L. Bunting
Vice President of Customer Services and
Energy Delivery

cc: Keith D. Crump
Richard L. Sharp